THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.21418 of 2005

Dated: 14-06-2006

Between:

Botla Rajeshwari and another.

..... PETITIONERS

AND

The Joint Collector (ROR), Karimnagar

and four others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION NO.21418 of 2005

ORDER:

The respondents 4 and 5 herein filed an application before the third respondent for mutation of their names in respect of the land in survey Nos.110A (Acs.2.06 guntas), 151A (0.11 guntas) and 172 (Acs.12.30 guntas) situated at Botlavanaparthi village. By order dated 19-05-2003, the Mandal Revenue Officer accepted the plea made by one Smt. Suvarna, mother of respondents 4 and 5 and issued mutation orders, which he described in the order as "virasat". Aggrieved by the same, the petitioners herein, who are none other than the grand mother and step sister of the respondents 4 and 5, filed an appeal purportedly under Section 5 B of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for brevity, the Act). By order dated 11-07-2005, the appellate authority, the Revenue Divisional Officer (RDO), set aside the order of the Mandal Revenue Officer (MRO) directing MRO to make entries accordingly. This was assailed by the respondents 4 and 5 under Section 9 of the Act before the Joint Collector, first respondent herein, who, by impugned order dated 05-08-2005, set aside the appellate order observing that the matter has to be

decided by the competent Court.

Inter alia, the learned counsel for the petitioners submits that the first respondent did not issue any notice before reversing the appellate order and therefore, the same is unsustainable. This is not seriously disputed or denied by the learned counsel for the respondents 4 and 5 and the learned Assistant Government Pleader for Revenue (General) has also produced the relevant file from the office of the first respondent.

As rightly pointed out by the learned counsel for the petitioners that while exercising the revisional jurisdiction under Section 9 of the Act, unless and until the affected party is given an opportunity to make representation, the Joint Collector cannot interfere with the orders passed by the MRO or RDO. Further under Rule 23 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989, as and when a revision petition is presented, the same has to be communicated to the person likely to be adversely affected by such exercise of revisional jurisdiction. This is conspicuously absent in the proceedings impugned. For this reason the same is unsustainable.

Accordingly the writ petition is allowed and the impugned order dated 05-08-2005 is set aside. The matter is remitted to the first respondent with a direction to dispose of the revision filed by the respondents 4 and 5 within a period of two weeks from the date of receipt of a copy of this order, after issuing notice to both the parties. No costs.

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V.V.S.RAO, J

14th June, 2006

ghn